

HB3267



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3267

by Rep. Michael W. Tryon

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-715
705 ILCS 405/5-740

Amends the Juvenile Court Act of 1987. Provides that nothing in the probation or placement provisions of the Delinquent Minors Article of the Act shall be construed to confer any jurisdiction or authority on the juvenile court to issue any other orders requiring the appointed guardian or custodian of a minor to place the minor in a designated foster home or facility.

LRB099 09193 RLC 29396 b

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-715 and 5-740 as follows:

6 (705 ILCS 405/5-715)

7 Sec. 5-715. Probation.

8 (1) The period of probation or conditional discharge shall
9 not exceed 5 years or until the minor has attained the age of
10 21 years, whichever is less, except as provided in this Section
11 for a minor who is found to be guilty for an offense which is
12 first degree murder, a Class X felony or a forcible felony. The
13 juvenile court may terminate probation or conditional
14 discharge and discharge the minor at any time if warranted by
15 the conduct of the minor and the ends of justice; provided,
16 however, that the period of probation for a minor who is found
17 to be guilty for an offense which is first degree murder, a
18 Class X felony, or a forcible felony shall be at least 5 years.

19 (2) The court may as a condition of probation or of
20 conditional discharge require that the minor:

21 (a) not violate any criminal statute of any
22 jurisdiction;

23 (b) make a report to and appear in person before any

1 person or agency as directed by the court;

2 (c) work or pursue a course of study or vocational
3 training;

4 (d) undergo medical or psychiatric treatment, rendered
5 by a psychiatrist or psychological treatment rendered by a
6 clinical psychologist or social work services rendered by a
7 clinical social worker, or treatment for drug addiction or
8 alcoholism;

9 (e) attend or reside in a facility established for the
10 instruction or residence of persons on probation;

11 (f) support his or her dependents, if any;

12 (g) refrain from possessing a firearm or other
13 dangerous weapon, or an automobile;

14 (h) permit the probation officer to visit him or her at
15 his or her home or elsewhere;

16 (i) reside with his or her parents or in a foster home;

17 (j) attend school;

18 (j-5) with the consent of the superintendent of the
19 facility, attend an educational program at a facility other
20 than the school in which the offense was committed if he or
21 she committed a crime of violence as defined in Section 2
22 of the Crime Victims Compensation Act in a school, on the
23 real property comprising a school, or within 1,000 feet of
24 the real property comprising a school;

25 (k) attend a non-residential program for youth;

26 (l) make restitution under the terms of subsection (4)

1 of Section 5-710;

2 (m) contribute to his or her own support at home or in
3 a foster home;

4 (n) perform some reasonable public or community
5 service;

6 (o) participate with community corrections programs
7 including unified delinquency intervention services
8 administered by the Department of Human Services subject to
9 Section 5 of the Children and Family Services Act;

10 (p) pay costs;

11 (q) serve a term of home confinement. In addition to
12 any other applicable condition of probation or conditional
13 discharge, the conditions of home confinement shall be that
14 the minor:

15 (i) remain within the interior premises of the
16 place designated for his or her confinement during the
17 hours designated by the court;

18 (ii) admit any person or agent designated by the
19 court into the minor's place of confinement at any time
20 for purposes of verifying the minor's compliance with
21 the conditions of his or her confinement; and

22 (iii) use an approved electronic monitoring device
23 if ordered by the court subject to Article 8A of
24 Chapter V of the Unified Code of Corrections;

25 (r) refrain from entering into a designated geographic
26 area except upon terms as the court finds appropriate. The

1 terms may include consideration of the purpose of the
2 entry, the time of day, other persons accompanying the
3 minor, and advance approval by a probation officer, if the
4 minor has been placed on probation, or advance approval by
5 the court, if the minor has been placed on conditional
6 discharge;

7 (s) refrain from having any contact, directly or
8 indirectly, with certain specified persons or particular
9 types of persons, including but not limited to members of
10 street gangs and drug users or dealers;

11 (s-5) undergo a medical or other procedure to have a
12 tattoo symbolizing allegiance to a street gang removed from
13 his or her body;

14 (t) refrain from having in his or her body the presence
15 of any illicit drug prohibited by the Cannabis Control Act,
16 the Illinois Controlled Substances Act, or the
17 Methamphetamine Control and Community Protection Act,
18 unless prescribed by a physician, and shall submit samples
19 of his or her blood or urine or both for tests to determine
20 the presence of any illicit drug; or

21 (u) comply with other conditions as may be ordered by
22 the court.

23 (3) The court may as a condition of probation or of
24 conditional discharge require that a minor found guilty on any
25 alcohol, cannabis, methamphetamine, or controlled substance
26 violation, refrain from acquiring a driver's license during the

1 period of probation or conditional discharge. If the minor is
2 in possession of a permit or license, the court may require
3 that the minor refrain from driving or operating any motor
4 vehicle during the period of probation or conditional
5 discharge, except as may be necessary in the course of the
6 minor's lawful employment.

7 (3.5) The court shall, as a condition of probation or of
8 conditional discharge, require that a minor found to be guilty
9 and placed on probation for reasons that include a violation of
10 Section 3.02 or Section 3.03 of the Humane Care for Animals Act
11 or paragraph (4) of subsection (a) of Section 21-1 of the
12 Criminal Code of 2012 undergo medical or psychiatric treatment
13 rendered by a psychiatrist or psychological treatment rendered
14 by a clinical psychologist. The condition may be in addition to
15 any other condition.

16 (3.10) The court shall order that a minor placed on
17 probation or conditional discharge for a sex offense as defined
18 in the Sex Offender Management Board Act undergo and
19 successfully complete sex offender treatment. The treatment
20 shall be in conformance with the standards developed under the
21 Sex Offender Management Board Act and conducted by a treatment
22 provider approved by the Board. The treatment shall be at the
23 expense of the person evaluated based upon that person's
24 ability to pay for the treatment.

25 (4) A minor on probation or conditional discharge shall be
26 given a certificate setting forth the conditions upon which he

1 or she is being released.

2 (5) The court shall impose upon a minor placed on probation
3 or conditional discharge, as a condition of the probation or
4 conditional discharge, a fee of \$50 for each month of probation
5 or conditional discharge supervision ordered by the court,
6 unless after determining the inability of the minor placed on
7 probation or conditional discharge to pay the fee, the court
8 assesses a lesser amount. The court may not impose the fee on a
9 minor who is made a ward of the State under this Act while the
10 minor is in placement. The fee shall be imposed only upon a
11 minor who is actively supervised by the probation and court
12 services department. The court may order the parent, guardian,
13 or legal custodian of the minor to pay some or all of the fee on
14 the minor's behalf.

15 (5.5) Jurisdiction over an offender may be transferred from
16 the sentencing court to the court of another circuit with the
17 concurrence of both courts. Further transfers or retransfers of
18 jurisdiction are also authorized in the same manner. The court
19 to which jurisdiction has been transferred shall have the same
20 powers as the sentencing court. The probation department within
21 the circuit to which jurisdiction has been transferred, or
22 which has agreed to provide supervision, may impose probation
23 fees upon receiving the transferred offender, as provided in
24 subsection (i) of Section 5-6-3 of the Unified Code of
25 Corrections. For all transfer cases, as defined in Section 9b
26 of the Probation and Probation Officers Act, the probation

1 department from the original sentencing court shall retain all
2 probation fees collected prior to the transfer. After the
3 transfer, all probation fees shall be paid to the probation
4 department within the circuit to which jurisdiction has been
5 transferred.

6 If the transfer case originated in another state and has
7 been transferred under the Interstate Compact for Juveniles to
8 the jurisdiction of an Illinois circuit court for supervision
9 by an Illinois probation department, probation fees may be
10 imposed only if permitted by the Interstate Commission for
11 Juveniles.

12 (6) The General Assembly finds that in order to protect the
13 public, the juvenile justice system must compel compliance with
14 the conditions of probation by responding to violations with
15 swift, certain, and fair punishments and intermediate
16 sanctions. The Chief Judge of each circuit shall adopt a system
17 of structured, intermediate sanctions for violations of the
18 terms and conditions of a sentence of supervision, probation or
19 conditional discharge, under this Act.

20 The court shall provide as a condition of a disposition of
21 probation, conditional discharge, or supervision, that the
22 probation agency may invoke any sanction from the list of
23 intermediate sanctions adopted by the chief judge of the
24 circuit court for violations of the terms and conditions of the
25 sentence of probation, conditional discharge, or supervision,
26 subject to the provisions of Section 5-720 of this Act.

1 (7) Nothing in this Section shall be construed to confer
2 any jurisdiction or authority on the juvenile court to issue
3 any other orders requiring the appointed guardian or custodian
4 of a minor to place the minor in a designated foster home or
5 facility.

6 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13;
7 98-575, eff. 1-1-14.)

8 (705 ILCS 405/5-740)

9 Sec. 5-740. Placement; legal custody or guardianship.

10 (1) If the court finds that the parents, guardian, or legal
11 custodian of a minor adjudged a ward of the court are unfit or
12 are unable, for some reason other than financial circumstances
13 alone, to care for, protect, train or discipline the minor or
14 are unwilling to do so, and that appropriate services aimed at
15 family preservation and family reunification have been
16 unsuccessful in rectifying the conditions which have led to a
17 finding of unfitness or inability to care for, protect, train
18 or discipline the minor, and that it is in the best interest of
19 the minor to take him or her from the custody of his or her
20 parents, guardian or custodian, the court may:

21 (a) place him or her in the custody of a suitable
22 relative or other person;

23 (b) place him or her under the guardianship of a
24 probation officer;

25 (c) commit him or her to an agency for care or

1 placement, except an institution under the authority of the
2 Department of Corrections or of the Department of Children
3 and Family Services;

4 (d) commit him or her to some licensed training school
5 or industrial school; or

6 (e) commit him or her to any appropriate institution
7 having among its purposes the care of delinquent children,
8 including a child protective facility maintained by a child
9 protection district serving the county from which
10 commitment is made, but not including any institution under
11 the authority of the Department of Corrections or of the
12 Department of Children and Family Services.

13 (2) When making such placement, the court, wherever
14 possible, shall select a person holding the same religious
15 belief as that of the minor or a private agency controlled by
16 persons of like religious faith of the minor and shall require
17 the Department of Children and Family Services to otherwise
18 comply with Section 7 of the Children and Family Services Act
19 in placing the child. In addition, whenever alternative plans
20 for placement are available, the court shall ascertain and
21 consider, to the extent appropriate in the particular case, the
22 views and preferences of the minor.

23 (3) When a minor is placed with a suitable relative or
24 other person, the court shall appoint him or her the legal
25 custodian or guardian of the person of the minor. When a minor
26 is committed to any agency, the court shall appoint the proper

1 officer or representative of the proper officer as legal
2 custodian or guardian of the person of the minor. Legal
3 custodians and guardians of the person of the minor have the
4 respective rights and duties set forth in subsection (9) of
5 Section 5-105 except as otherwise provided by order of court;
6 but no guardian of the person may consent to adoption of the
7 minor. An agency whose representative is appointed guardian of
8 the person or legal custodian of the minor may place him or her
9 in any child care facility, but the facility must be licensed
10 under the Child Care Act of 1969 or have been approved by the
11 Department of Children and Family Services as meeting the
12 standards established for such licensing. Like authority and
13 restrictions shall be conferred by the court upon any probation
14 officer who has been appointed guardian of the person of a
15 minor.

16 (4) No placement by any probation officer or agency whose
17 representative is appointed guardian of the person or legal
18 custodian of a minor may be made in any out of State child care
19 facility unless it complies with the Interstate Compact on the
20 Placement of Children.

21 (5) The clerk of the court shall issue to the guardian or
22 legal custodian of the person a certified copy of the order of
23 court, as proof of his or her authority. No other process is
24 necessary as authority for the keeping of the minor.

25 (6) Legal custody or guardianship granted under this
26 Section continues until the court otherwise directs, but not

1 after the minor reaches the age of 21 years except as set forth
2 in Section 5-750.

3 (7) Nothing in this Section shall be construed to confer
4 any jurisdiction or authority on the juvenile court to issue
5 any other orders requiring the appointed guardian or custodian
6 of a minor to place the minor in a designated foster home or
7 facility.

8 (Source: P.A. 90-590, eff. 1-1-99.)